### BEST AVAILABLE COPY



PATENT

#### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No. 09/902,750

Confirmation No. 9605

In re application of:

Group Art Unit: 1661

Robert Noodelijk

Examiner: Ann Marie Grünberg

Filed: July 12, 2001

For: CHRYSANTHEMUM PLANT NAMED 'CREAM ELITE REAGAN'

#### REPLY TO REQUIREMENT FOR INFORMATION UNDER 37 CFR 1.105

Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicant replies to the Requirement for Information under 37 CFR 1.105 mailed May 25, 2005 as follows:

As to parts a) and b) of the requirement, enclosed is a copy of the 2000 version of the CBA catalog first distributed in November 1999. The enclosure includes a page displaying 'CREAM ELITE REAGAN'. The Examiner will note that the variety is called 'Reagan Elite Cream' in the catalog. Application submits that the catalog is not a publication of the plant perse. In re LeGrice, 133 USPQ 365 (CCPA 1962).

As to part c) of the requirement, PBR documents for the variety were registered in the Netherlands and the CPVO. As

Serial No.: 09/902,750

explained in correspondence in other cases (see, for example, the comments in the Reply to Requirement for Information Under 37 CFR 1,.105 filed May 31, 2005 in application Serial No. 09/562,283), it is necessary for one to learn the parentage of the plant to be able to propagate the plant; such information is not available at the Dutch office (information is given out to third parties when the registrant gives permission to do so; CBA does not grant such permission) and becomes available at the CPVO after publication of the correct denomination. Here, that the date of correct denomination publication is December 15, 2002; see the enclosed copy of a June 23, 2005 letter to the Examiner from the CPVO. The publication of the denomination took place at a date subsequent to the filing date of the instant application, namely July 12, 2001. access to critical information regarding the plant was not available until after the case was filed.

As to part d) of the requirement, applicant points out that one would not have been able to practice the invention lacking information about the parentage of the variety and that such information would not have been available until after the instant case was filed. There are no acts precluding patentability here.

Serial No.: 09/902,750

Favorable treatment of the application is earnestly solicited.

Respectfully submitted,

STEPTOE & JOHNSON LLP

Charles A. Wendel

Registration No. 24,453

CAW/ch

Enclosure:

Pages from 2000 CBA Catalog Copy of June 23, 2005 letter From CPVO to Examiner

Atty Docket: 28967.0111

STEPTOE & JOHNSON LLP 1330 Connecticut Ave., N.W. Washington, D.C. 20036 (202) 429-6415

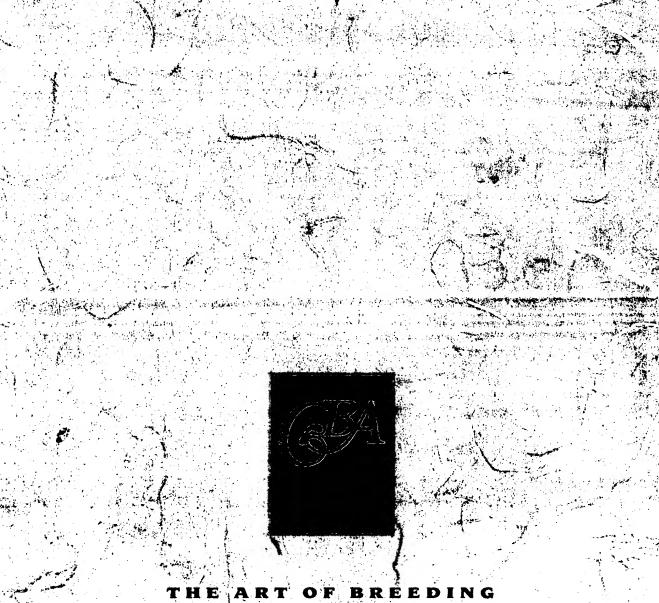
# CATALOGUE



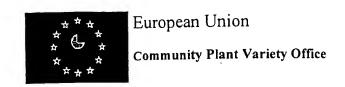
SPRAY CHRYSANTHEMUM • SANTINI • DISBUD

## SPRAY CHRYSANTHEMUM

WHITE	1.457	2, 2,						
ANEMONE	Œ		REPORT	7	WHITE		GREEN	01-32
1		1	REFOUR	7.5	WHITE		WHITE	01-32
			RELINDA	7.5	WHITE	ст	GREEN	01-32
4			REWINNER	8	WHITE	ст	GREEN	50-36
100	Œ	_	REWING	7	WHITE	*	GREEN/WHITE	01-34
	(E	-	REBLANCHE	7	WHITE	÷	GREEN	01-35
DAISY	181	· •	REAGAN MUNDO WHITE	7	WHITE	СТ	GREEN	01-52
Drug		`	REAGAN ELITE WHITE	71	WHITE	- N	GREEN	01-52
		- 1	REAGAN WHITE	7.5	WHITE	0	GREEN	01-52
	1		RESPECTFUL	8 - 35	WHITE		YELLOW/GREEN	01-52
DECORATIV		~"	REBONNET	6.5	WHITE	,	WHITE	50-36
			REVEAL	7	WHITE	*	WHITE/GREEN	Q1-52
SPIDER	*		RECITAL	8	WHITE		WHITE	50-32
		1	REFLECT		WHITE		WHITE	01-36
		<i>"</i>	REFORM	8.5	WHITE	CT		<b>01-52</b>
VELLOW	- C	RE	ME 4	A Secretary				· Kanta
ANEMONE"			REQUIRE	7	YELLOW		YELLOW	01-35
			REACTION	7.5	YELLOW	СТ	YELLOW	01-52
		4.	RELINDA SUNNY	7.5	YELLOW	СТ	GREEN	01-32
			REMCO YELLOW	7.5	YELLOW	CT	RED-4	50-32
			REGATTA	8	YELLOW		GREEN	01-32
DAISY	13.5		RECOTTA YELLOW	6,5	YELLOW		GREEN	01-35
	S.)	1	LUCKY LION CREAM	6.5	CREAM		GREEN	01-52
			LUCKY LION	6.5	YELLOW		GREEN	01-52
		- 1	LUCKY LION SUNNY	6.5	YELLOW	DARK	GREEN	01-52
	4		REAGAN CREAM	7.5	YELLOW	CREAM	GREEN	Q1-52
And the State of t			REAGAN ELITE CREAM	7	YELLOW	CREAM	GREEN	01.52
	1		REAGAN GOLDEN	7.5	YELLOW	GOLDEN	GREEN	01-52
-E	**	1	REAGAN LEMON	7.5	YELLOW	LEMON	GREEN	0132
			REAGAN MUNDO YELLOW	7.5	YELLOW	СТ	GREEN	01-52
		~	REAGAN SULPHUR	7.5	XELLOW	LIGHT	GREEN	01-52
			REAGAN SUNNY	7.5	YELLOW	DARK	GREEN	01-52
			REAGAN YELLOW	7.5	YELLOW		GREEN	01-52
	12 1		REYELLOW	8	YELLOW	DARK	GREEN	01-52
	<b>3</b>		VYKING *	8 🔆 🔅 .	YELLOW	DARK	BROWN	01-36
		-1	VYSTAR IMPROVED	8.5	AELTOM	ORANGE	GREEN	01-52
*** **********************************	0.4		REGOLTIME	9.	YELLOW	DARK	GREEN	01-52
			VYRON	9	YELLOW	ORANGE CT	BROWN	01-52
SPIDER	4		REGIRO	7	YELLOW		YELLOW/GOLDEN	01-35
SPOON	-6		REPULSE YELLOW	8	YELLOW		GREEN	05-32
PINK .	VIOL	ΕΊ	r • Purple • Sali	ON .	APRICOT • C	HERRY		
ANEMONE			REMCO APRICOT	7.5	APRICOT		ORANGE/RED	50-32
19	1.		REMCO LILAC	7.5	PINK	LIGHT	RED/PURPLE	50-32
DAISY	7.	1	REAGAN ELITE	7	PINK		GREEN	01-36
	d	D	REMERO	7,5	PINK/WHITE TIP		GREEN	01-52
_	1	1	REAGAN PEACH	7.5	APRIÇOT	DARK 4.	GREEN	01-52
	1		REAGAN SPLENDID	7.5	PURPLE	LIGHT	GREEN	01-52
			REAGAN SPLENDID DARK	7.5	PURPLE	DARK	GREEN	01-52
· 1	<b>,</b>	1	·	l		I	COPPE	1 1 1



CBA n.v. P.O.Box 370, 1430 AJ Aalsmeer, The Netherlands
Phone +31 297 347870, Fax +31 297 344612, Internet www.cba-nv.nl, E-mail cba@tref.nl



Mrs. Anne-Marie Grunberg

United States Dept. of Commerce Patent and Trademark Office Commissioner for Patents P.O. Box 1450 Alexandria Virginia 22313-1450 USA

1.3

Our ref: rc/jm/50033y

Subject: Observation to a submitted variety denomination

Cream Elite Reagan Denomination Chrysanthemum Species Chrysanthemum Breeders Association Applicant (name and address) (the Netherlands) Denomination proposed on 28th July 2000 Bulletin according to the UPOV CD ROM no. 2/2005. Please be informed that the information Observation contained in the UPOV CD ROM is incorrect. This denomination (2000/1172) was proposed on 1st August 2002, published on 15th December 2002 and the variety was granted European plant variety rights under this denomination on 5th May 2003 (EU 11.061) 23/06/05 Date Signature

# This Page is Inserted by IFW Indexing and Scanning Operations and is not part of the Official Record

### **BEST AVAILABLE IMAGES**

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:	
☐ BLACK BORDERS	
☐ IMAGE CUT OFF AT TOP, BOTTOM OR SIDES	
☐ FADED TEXT OR DRAWING	
☐ BLURRED OR ILLEGIBLE TEXT OR DRAWING	
☐ SKEWED/SLANTED IMAGES	
☐ COLOR OR BLACK AND WHITE PHOTOGRAPHS	
☐ GRAY SCALE DOCUMENTS	
☐ LINES OR MARKS ON ORIGINAL DOCUMENT	
☐ REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY	

### IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.